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**City of Vaughan - Preliminary Policy Research for Private Roads**  
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1.0	Introduction .....	2
1.1	Challenges and Opportunities.....	2
2.0	Provincial and Regional Policy .....	4
2.1	Municipal Act (2001).....	4
2.1.1	Operations and Maintenance .....	4
2.1.2	MMAH – Private Roads Planning Guidelines .....	4
2.2	Planning Act (1990).....	5
2.3	Provincial Policy Statement (2014) .....	6
2.4	Greater Growth Plan for the Golden Horseshoe – Places to Grow (2019).....	7
2.5	Region of York Official Plan (Office Consolidation, 2019 and Draft OP, 2021) .....	7
2.6	City of Toronto Policies .....	9
2.6.1	City of Toronto Official Plan (Office Consolidation, 2019).....	9
2.6.2.	City of Toronto Green Standard Version 3.....	9
2.6.3.	Toronto Design Guidelines.....	10
2.6.4	City of Toronto Development Infrastructure Policy & Standards.....	11
3.0	City of Vaughan Policy.....	12
3.1	Vaughan Official Plan 2010 (Office Consolidated 2010) .....	12
3.1.1	Intensification, Heritage Districts, and Urban Districts.....	12
3.1.3	Vaughan Metropolitan Centre Secondary Plan (February 2021).....	13
3.1.4	Other Secondary Plans.....	14
3.1.5	Policy Implementation .....	14
3.2	Vaughan Vision 2020 – Strategic Plan (2013) .....	14
3.3	Green Directions Vaughan – Community Sustainability and Environmental Master Plan.....	15
3.4	Relevant Transportation Plans.....	15
3.4.1	Active Together Master Plan (2018) .....	16
3.4.2	Vaughan Transportation Master Plan – A New Path (2013).....	16
3.4.3	Vaughan Pedestrian and Bicycle Master Plan Study (December 2020).....	16
3.4.4	MoveSmart Mobility Management Strategy (On-going) .....	17
3.5	Relevant Articles .....	17
4.0	Private Roads Best Practices.....	19
4.1	Policy Tools: Building the Framework.....	19
4.2	Liability and Operational Issues .....	20
5.2	Case Studies in Ontario .....	21

5.2.1	Financial Liability.....	21
5.2.2	Access and Connectivity.....	22
5.2.3	Managing Operations and Service.....	22
5.2.4	Relationship to Other Objectives.....	23
5.3	Case Studies: Other Provinces.....	23
5.3.1	Lunenburg Private Streets By-Law.....	23
5.3.2	Tay Valley Policies and Procedures Manual.....	24
6.0	Conclusions.....	25
6.1	Situations for Private Streets.....	25
6.2	Criteria for Private Streets.....	26
6.3	Next Steps: Policy Development.....	27
Appendix A: Secondary Plans and Other Policy Implementation.....		29
	Carville Centre Secondary Plan (2013).....	29
	Concord Go Centre Secondary Plan (2015).....	29
	Kipling Avenue Corridor Secondary Plan (2014).....	29
	Maple/GO Secondary Plan (2014).....	30
	Promenade Centre Secondary Plan (on-going).....	30
	Steeles West Secondary Plan (2018).....	31
	Vaughan Healthcare Centre Precinct Plan (on-going).....	31
	Vaughan Mills Centre Secondary Plan (2014).....	31
	Weston Road and Highway 7 Secondary Plan and Transportation Master Plan (on-going).....	32
	Woodbridge Centre Secondary Plan (2015).....	32
	City of Vaughan Comprehensive Zoning By-Law No. 001-2021.....	32
	City-Wide Urban Design Guidelines Volume 1.....	33
Appendix B: Policy Examples.....		34
	City of Cambridge.....	34
	City of Pickering.....	34
	City of Brantford.....	35
Appendix C: Policy Findings.....		37

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# Executive Summary

Intensification and interests in efficient land use has increased the number of proposals containing publicly accessible private streets across the Greater Toronto Area (GTA). This has resulted in both challenges and opportunities. As a major GTA municipality, the City of Vaughan is experiencing high volumes of growth, and development, and with new growth directed to intensification areas, such as the Vaughan Metropolitan Centre. To accommodate this growth, the City must look to new strategies to provide safe, accessible and community-oriented infrastructure to its constituents and private streets are a consideration as Vaughan progresses towards a street network that enhances transportation opportunities and place making initiatives.

HSAL has conducted research on relevant Provincial and Regional policies and Vaughan-specific secondary plans, strategies, and transportation policies pertaining to private streets (or equivalent). Additionally, case studies where municipalities have successfully implemented private street policies were summarized. HSAL has also included discussion on how these case studies and their respective policy frameworks may inform a policy solution for Vaughan.

The literature review found many benefits and existing policies relating to publicly accessible private streets. One of the primary benefits is the ability to compliment the existing public road network by providing a finer-grained, walkable and connected public realm network otherwise difficult to achieve through large land parcels. Existing policies outline management, financial, planning and governance structures while supporting design guidelines and/or standards set out to ensure private roads are safe, well-lit, accessible, consistent in design and pedestrian oriented. However, challenges with private roads also exist and these challenges include governance structures (i.e., conveyance and management by a private entity or the municipality), adequate long-term maintenance and funding strategies, and the development of planning mechanisms for their creation. Addressing these challenges will be pivotal in developing private street policies for the City of Vaughan.

In this report, Hardy Stevenson and Associates Ltd. (HSAL) outlines situations and criteria for Vaughan to consider when responding to private streets in intensification areas. We recommend a comprehensive policy framework for Vaughan to continue serving and prioritizing constituents.



# 1.0 Introduction

As the City of Vaughan continues to grow and urbanize, provision of a finer-grained, walkable and connected grid network may be difficult to achieve through large land parcels, particularly in the vicinity of major transit stations and stops. A solution to this issue lies in the development of a policy framework which allows for privately-owned but publicly accessible spaces, and further encourages private developers to build this grid-network.

To support a made-in-Vaughan private streets policy framework, a review of existing policies to understand how private streets are referenced in existing City of Vaughan Official Plan, Strategic Plans, and Transportation Plans has been conducted. Case studies from other municipalities in Ontario and other Provinces, depicting comprehensive and creative policy frameworks were also used to provide working examples and proven methods that can serve the needs of the City of Vaughan. All together, this policy review provides a basis for next steps to support development of a private streets policy framework for the City of Vaughan.

Please note that throughout the research, sources use the term private roads, private lanes, and Privately-Owned Publicly Accessible Spaces (POPS) to refer to private streets. Therefore, the quotations used in each section reflects the original source.

## 1.1 Challenges and Opportunities

With increased urban development, municipalities have recognized the value of private roads, lanes, and privately operated public spaces (POPS). The challenges point to the difficulty in developing an effective private streets framework. For example, the interaction and agreements with the private landowner need definition. Private space acquisition and the respective appropriate planning and legal mechanisms also need to be considered when developing a policy framework. For example, there should be consideration for both short- and long-term protection of financial liability under changing circumstances of ownership or conveyance and threats to street access by new development.

The mechanisms for successfully implementing these spaces and ensuring long-term viability is complex and needs clear policy directives. Considerations for the context of agreements and incentives to build private spaces (i.e., height bonusing) can be taken into account. Additionally, public control over the spaces by placing provisions on title or the deed could be considered. Planning approval mechanisms, such as Site Plan Agreements, other Development Agreements, and exemptions from zoning provisions, could also help to secure land and to determine the development of private streets.

Municipalities are keen to take advantage of the intensification opportunities, such as dual use and increased connectivity, that private roads and spaces provide. First, however, challenges such as application of urban design and engineering standards need to be addressed. Given that these spaces may be underutilized, policies or design guidelines must enhance the function of private streets to

enhance public open space as places for art and entertainment and places of public dialogue. Design considerations include design legibility (i.e., how people understand the space), uses and design best practices. Additionally, as aligned with the Vaughan Official Plan (2010) Sections 5.1.1.2. and 5.2.2.4 private streets can implement municipal interests such as establishing diverse uses in employment areas.

Moving forward, when Vaughan adopts an overarching private streets policy, the acquisition, governance structure, planning incentives, funding and design excellence must be well defined either in policy or through the development application process.



## 2.0 Provincial and Regional Policy

### 2.1 Municipal Act (2001)

The Municipal Act (2001) is the main statute governing the creation, administration and government of municipalities in Ontario. Some municipal plans require property owners to enter into an agreement under the Municipal Act for improvements, maintenance, or operation of a private lane. Section 23 of the Municipal Act states that: “A municipality may enter into an agreement with any person to construct, maintain and operate a private road...”. It does not appear that there is any provision under the Municipal Act that authorizes such an agreement to be registered against the land to which it applies and enforce the terms of the agreement against all subsequent owners of the land<sup>1</sup>.

#### 2.1.1 Operations and Maintenance

Beyond day-to-day operations, replacement and updating of signage for private streets also requires clarity. For example, the Municipal Act (2001) states:

##### ***Entry on land, naming highways***

*61 (1) A municipality may, at any reasonable time, enter upon land lying along a highway to install and maintain a sign setting out the name of a highway. 2001, c. 25, s. 61 (1).*

##### ***Private roads***

*(2) If a local municipality has passed a by-law under section 48 to name or change the name of a private road, the municipality may, at any reasonable time, enter upon land lying along the private road to install and maintain a sign setting out the name of the road. 2001, c. 25, s. 61 (2).*

In addition to this, while the Highway Traffic Act, R.S.O. 1990 C. H.8 – Part X.139 reinforces safety for movement from private roads to public roads, other rules from the Act are not enforceable on private property. If private roads become an integral part of thru traffic in the street network, issues may arise.

#### 2.1.2 MMAH – Private Roads Planning Guidelines for Municipalities

The Ministry of Municipal Affairs and Housing 1982 *Private Roads: Planning Guidelines for Municipalities* (Guidelines) stipulate that there are potential local and Provincial problems where private roads provide access for development. The Guidelines were formed to provide clarity for Municipalities. The Ministry discourages any development on new and existing private roads in the absence of a comprehensive study on the planning, financial and legal implications for the Municipality as well as approved Official Plan policies based on the aforementioned study. The Guidelines provide the framework for what type of information will be needed to prepare the study which considers the following implications:

- **Financial Costs** - The costs of bringing a private road into the public system (e.g., improvements and maintenance);

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<sup>1</sup> Jp2g Consultants Inc. (2016) Private Roads (Lanes) Study: Final Report and Recommendations County of Frontenac, Ontario, Canada

- **Legality** – Determining if a road is private or public (e.g., public roads which have been assumed by the municipality are improved and maintained at public expense). The municipality may be liable for damages caused by lack of maintenance even though it may not have clear title to these roads.
- **Land Use Planning** - Private roads have been largely associated with seasonal residential uses in recreational areas. Demand for municipal ownership and maintenance of these roads is low where the development serviced is seasonal.

When developing and finalizing a private streets policy framework in the City of Vaughan, the financial burden, as well as the legal and land use planning frameworks will need to be considered. Vaughan's position will need to be identified and consistent across Official Plan policies, zoning approaches and any regulatory or financial tools used, for example *an Official Plan would need to stipulate a private roads policy, zoning and then the creation of By-Laws.*

## 2.2 Planning Act (1990)

The Planning Act, R.S.O. 1990, is provincial legislation that sets out the ground rules for land use planning in Ontario. It describes how land uses may be controlled, and who may control them. Agreements for development related to new private lanes are implemented under the authority of the Planning Act, c. P.13. Section 51 (25) of the Planning Act allows for an approval authority to impose conditions to the approval of a plan of subdivision including a requirement that the landowner enter into one or more agreements with a municipality in consideration of the provision of municipal or other services. Section 51 (26) of the Planning Act allows a municipality to enter into agreements imposed as a condition to the approval of a plan of subdivision and have the agreements registered against the title of the land to which it applies. The municipality is also entitled to enforce the provisions of such agreements entered into by the owner and any subsequent owners of the land.

The advantages of agreements implemented as a condition to the development of new lots on private lanes include the following:

- Requires the Owners to construct and maintain the private lane in accordance with standards specified in the agreement.
- Requires the Owners to acknowledge that the Municipality is not responsible for maintaining or providing services along the private lane.
- Requires the Owners to indemnify the Municipality for all actions, cause of action, duties, claims or demands governed by the agreement, including the construction and maintenance of the works.
- Requires the agreement to be registered against the title of the land to which it applies and be binding upon subsequent property owners.

- In the event of a default, the Municipality can be authorized to complete the works at the Owner's expense and add their costs as municipal taxes or by actions pursuant to Section 446 of the Municipal Act<sup>2</sup>.

The disadvantages of development agreements include the following:

- Unlike condominiums, there is no corporate structure for the ownership and long-term maintenance of the private lane.
- Consent agreements are incremental, as new lots are created. Therefore, some property owners may have consent agreements registered against the title of their lands, while others do not.
- Rural municipalities rarely monitor and enforce the provisions of development agreements that require the Owners to maintain their private lane

## 2.3 Provincial Policy Statement (2014)

Portions of the City of Vaughan are defined as an urban area settlement area under the Provincial Policy Statement 2014 (PPS). These are the areas experiencing the majority of significant growth and intensification. When directing development on urban lands, the PPS requires a planning authority to direct communities to use land and resources wisely, to promote efficient development patterns, protect resources, promote green spaces, ensure effective use of infrastructure and public service facilities, minimize unnecessary public expenditures, and plan safe open and public spaces.

Section 1.0 of the PPS, Building Strong Healthy Communities, is applicable at a high level to the preparation of Official Plan policies that would permit development on private lanes:

- PPS Section 1.1.1. a) promoting efficient development and land use patterns which sustain financial well-being of the Province and municipalities over the long term.
- PPS Section 1.1.1. c) avoiding development and land use patterns which may cause environmental or public health and safety concerns.
- PPS Section 1.1.1. g) ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs.

Section 1.5, Public Spaces, Recreation, Parks, Trails and Open Spaces of the PPS details standards regarding public streets and open spaces.

- PPS Section 1.5 a) planning public streets, spaces and facilities to be safe, meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity.

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<sup>2</sup> Jp2g Consultants Inc. (2016) Private Roads (Lanes) Study: Final Report and Recommendations County of Frontenac, Ontario, Canada

- PPS Section 1.5 b) planning and providing for a full range and equitable distribution of publicly accessible built and natural settings for recreation, including facilities, parklands, public spaces, open space areas, trails, and linkages, and, where practical, water-based resources.

Regarding the development of infrastructure, Section 1.6 Infrastructure and Public Service Facilities may also be applicable:

- PPS Section 1.6.3 Before consideration is given to developing new infrastructure and public service facilities: the use of existing infrastructure and public service facilities should be optimized; and opportunities for adaptive re-use should be considered, wherever feasible.
- PPS Section 1.6.4 Infrastructure and public service facilities should be strategically located to support the effective and efficient delivery of emergency management services.

## 2.4 Greater Growth Plan for the Golden Horseshoe – Places to Grow (2019)

Places to Grow is the Ontario government's initiative to plan for growth and development in a way that supports economic prosperity, protects the environment, and helps communities achieve a high quality of life. The Places to Grow Act, 2019 enables the development of regional growth plans that guide government investments and land use planning policies. Section 3 Infrastructure to Support Growth states that well-planned infrastructure is essential to the viability of Ontario's communities and critical to economic competitiveness, quality of life, and the delivery of public services. Furthermore, the Plan indicates that roadway design, reconstruction, and refurbishment will ensure that the needs and safety of all road users are considered when planning and building the street network.

## 2.5 Region of York Official Plan (Office Consolidation, 2019 and Draft OP, 2021)

The Region of York Official Plan, Office Consolidation (2019) describes how York Region plans to accommodate future growth and development while meeting the needs of existing residents and businesses in the Region. It provides directions and policies that guide economic, environmental and community planning decisions.

Section 3.1 focuses on human health which is strongly related to the built and natural environments. Personal health and well-being are linked to opportunities to live, work, play and learn within the same community. More specifically, Section 3.1.5 stipulates that public health and other human services be incorporated into the design and evaluation of new community areas and Regional Centres and Corridors. Section 5.0 An Urbanizing Region states that the built form and character of growth will vary across the Region, and all development will be held to high standards. Each community will have a unique sense of place and an integrated and linked natural heritage system, and each will promote active lifestyles through pedestrian-oriented environments. Throughout the Plan, sustainability, walkability, transit, cycling, and connectivity are stressed as basic tenets of healthy communities.

Excellence in new community and urban design, including streetscape design, is essential to upholding the requirements of the Plan. Vaughan's future policy position on private streets should be considered as

aligning with the Region of York Official Plan. For example, private streets may abut POPS and under these conditions they become connectors that further the concept of healthy communities. Under these circumstances, urban design guidelines that speak to minimum standards for developing private street may be provide direction.

Currently, York Region is conducting a Comprehensive Review of the Official Plan to conform with A Places to Grow Act on July 1, 2022. A Draft York Region Official Plan was released in December 2021. The Draft OP prioritizes “complete communities” and Section 6.3 Moving People and Goods supports the use of private roadways with *6.3.3.23 requiring local municipalities to include new local streets and shared private roadway systems in emerging infill areas within secondary, block and tertiary plans to consolidate access along Regional roads, minimize cul-de-sacs, and implement a street network that supports the delivery of emergency services.*

Overall, transit supportive facilities and connectivity infrastructure is strongly supported, and Transportation Mobility Plans are required for all regional OP amendments. This further reinforces the need for direction of private streets as finer grain networks are discussed.

## 2.6 City of Toronto Policies

### 2.6.1 City of Toronto Official Plan (Office Consolidation, 2019)

Given it is an area of greater urban complexity, the City of Toronto's policy and guidelines serve as a supportive example for the City of Vaughan. The City of Toronto Official Plan (Office Consolidation, 2019) is intended to ensure that the City of Toronto evolves, improves, and realizes its full potential in areas such as transit, land use development and the environment. Section 3.1.1, Public Realm, lists policies for new developments and their relationships to adjacent streets and open spaces. City of Toronto Official Plan policies that may inform development of Vaughan's private street policies are outlined below.

- Toronto OP Section 3.3.1.1 New development will provide amenity for adjacent streets and open spaces to make these areas attractive, interesting, and comfortable and functional for pedestrians:
  - 3.1.1.1.a) improvements to adjacent boulevards and sidewalks respecting sustainable design elements, which may include one or more of the following: trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers, lighting and bicycle parking facilities;
  - 3.1.1.1.b) co-ordinated landscape improvements in setbacks to create attractive transitions from the private to public realms;
  - 3.1.1.1.d) landscaped open space within the development site.
- Toronto OP Section 3.3.1.13 Interior shopping malls, underground concourses, plaza walkways, and private mid-block connections will be designed to complement and extend, but not replace, the role of the street as the main place for pedestrian activity. They should be accessible, comfortable, safe, and integrated into the local pattern of pedestrian movement with direct, universal physical and visual access from the public sidewalk and clear pathfinding within. Additional infrastructure needed for the building of new communities will be laid out and organized to reinforce the importance of public streets and open space as the structural framework that supports high quality city living.

City of Toronto has urban design guidelines for Privately-Owned Publicly Accessible Spaces (POPS), which will be discussed in a subsequent section, Section 5.1.2. Urban Design Guidelines for POPS would be applicable when private streets abut civic squares or pedestrian lanes.

### 2.6.2. City of Toronto Green Standard Version 3

The Toronto Green Standard is Toronto's sustainable design requirements for new private and city owned developments. The Standard consists of tiers (Tiers 1 to 4) of performance measures with supporting guidelines that promote sustainable site and building design. Tier 1 of the Toronto Green Standard is a mandatory requirement of the planning approval process. Financial incentives are offered through the Development Charge Refund Program Version 3. Or, Version 2 for planning applications that meet higher level voluntary standards in Tiers 2 to 4.

### 2.6.3. Toronto Design Guidelines

The City of Toronto's Design Guidelines for Privately Owned Publicly Accessible Spaces (POPS) (2014) addresses the design challenges associated with the need and demand to create new parks and open spaces associated with growth. They recognize that POPS are a key part of the City's public realm network, providing open space in much-needed locations across the City and complementing existing and planned parks, open spaces and natural areas. The Guidelines were designed to help achieve optimal locations and scale for POPS as well as high quality design that enhances development and fits into the neighbourhood context. The Guidelines support open spaces that are welcoming to the public.

The document contains 34 pages of definitions, detailed policies, guidelines and examples of open space classifications and potential design elements. Section 2.1, Creating a Network of Open Spaces, outlines a series of guidelines on how POPS must integrate and complement the City's overall open space network.

With the growth of the City of Vaughan, these design guidelines could support the creation of new, effective, and well-designed open spaces that are privately owned. Keeping in mind that POPS may or may not be accompanied by a private street, the following guidelines may be taken into consideration to ensure consistency and excellence in Vaughan.

- 2.1.a) Support and enhance city-building, urban structure and urban design objectives for the City.
- 2.1.b) Ensure access and visibility to POPS from adjacent public streets, parks or other public spaces. This legibility of the public nature of POPS will enhance usability.
- 2.1.c) Provide appropriate signage to indicate the location of POPS when not adjacent to the public street, for example a courtyard space.
- 2.1.d) Optimize the siting and design of open space in new developments to enhance views or visual corridors to public streets, open spaces, heritage sites and landmarks.
- 2.1.e) Utilize mid-block pedestrian walkways to connect POPS with nearby public open spaces.

Section 2.2 of the Guidelines, Enhancing Building and Site Program, aims to facilitate open spaces that enhance the planned program of the site and building. Relevant City of Toronto guidelines for private streets in Vaughan include the following.

- 2.2.a) Connect with and expand other parks and open spaces such as parks, trails, and other pedestrian connections.
- 2.2.b) Avoid fragmentation of open spaces where possible. Larger areas provide more flexibility to accommodate a range of social functions as well as more usable space.
- 2.2.c) Consider pedestrian movement through the site. Adjacent or nearby public uses such as open spaces, schools or community centres might inform where and how pedestrian circulation

networks should be provided. Consider existing and potential pedestrian desire lines in the design and placement of walkways.

Lastly, the guidelines provided a review of various open space classifications. The guidelines that are most relevant to Vaughan's private streets are included in the City of Toronto POPS Design Guidelines Section 3.4, Walkways/Mid-Block Pedestrian Connections. Specific applicable guidelines are found below.

- Locate at the same grade as the adjacent public sidewalk(s) and connect with the public sidewalk or pedestrian routes in adjacent blocks or developments.
- Where appropriate, locate mid-block connections to align with important view corridors
- Provide a clear pedestrian pathway with high-quality, durable paving materials.
- Provide direct access to public destinations, including public sidewalks, buildings, parks, open spaces and natural areas
- Encourage safety and comfort by lining walkways and mid-block pedestrian connections with active uses that are accessible from the walkway to increase pedestrian activity, as well as windows for overlook and visual permeability.
- Provide clear sightlines at all access points to increase public safety.
- Include a repetition of elements, such as pavers, lights, seating, planters, and trees.
- Introduce landscape elements to provide amenity and visual interest.
- Seating should be provided and may be integrated into building façades or planting areas.
- Signage should be included to identify adjacent buildings or open spaces.
- Provide pedestrian scale lighting along walkways and mid-block connections

Overall, Toronto's POPS Design Guidelines ensures private spaces that are publicly accessible are well designed, pedestrian-friendly, safe, and consistent with City-owned amenities (sidewalks, roads, parks etc.). Vaughan could consider a set of design guidelines for its private streets to ensure consistency with its existing streetscape network and promote pedestrian access and comfort.

#### 2.6.4 City of Toronto Development Infrastructure Policy & Standards

The City of Toronto Development Infrastructure Policy and Standards (2005) section 4.0 Private Streets and Mews refer to public local streets and private streets (in reference to mews or streets internal to townhouses). Engineering design standards are set out for access and safety, such as lighting requirements, and municipal services are specifically limited to waste management. In general, this policy is good to know and may provide background support, but does not directly address Vaughan's private street challenges.



## 3.0 City of Vaughan Policy

### 3.1 Vaughan Official Plan 2010 (Office Consolidated 2010)

The Official Plan (OP) is a legal document approved by the City of Vaughan and the Region of York, which describes policies and objectives for future land use. It reflects a community vision for future change and development. The Official Plan is part of an overall Growth Management Strategy, initiated by Council, that will shape the future of the City and guide its continued transformation into a vibrant, beautiful and sustainable City.

Vaughan's Official Plan provides guidance for the physical development of the municipality to the year 2031 while taking into consideration important social, economic, and environmental issues and objectives. The Plan provides a policy framework that will guide the following:

- Where new development can locate;
- How existing and future neighbourhoods will be strengthened;
- How Vaughan's environment will be enhanced;
- What municipal services, such as roads, water mains, sewers and parks, will be provided;
- When and where Vaughan will grow.

Chapter 4 relates to Transportation. Section 4.1.1 stipulates that the existing street network will serve as the framework for enhancements to transit, walking and cycling systems, making efficient use of existing and future infrastructure investments. Infill and intensification will bring new growth and streetscape investments will make streets enjoyable and safe places.

The section on the Street Network (4.2.1.4) stipulates that the hierarchy of streets includes arterials, collector and local streets, that are based on functional classification, traffic volume, access, transit service, pedestrian and bicycle activity and development density. Moreover, street design is planned in accordance with City engineering standards for each street class. Section 4.2.1.6. states that the implementation of various improvements to the street network will be in coordination with York Region, appropriate agencies, utility providers and adjacent municipalities and secure land for such purposes through the development approvals process.

#### 3.1.1 Intensification, Heritage Districts, and Urban Districts

New growth in Vaughan will be direct towards intensification areas consisting of mixed-use centres and corridors. The Vaughan Metropolitan Centre will be the downtown with the widest range of uses while Regional and Primary Intensification Corridors may also include mixed-uses. Efficient land use is one of

the main objectives for mixed-use intensification areas which makes them prime locations for proposals that include private streets. Conversely, the Vaughan Official Plan positions historic areas as local centres, and Heritage Conservation Districts are aimed at preserving the historic value of the landscape with limited new development and protective of public streets. Within the existing Vaughan policy structure, circumstances where private streets may and may not be considered have already been emerging through Secondary Plans.

### 3.1.3 Vaughan Metropolitan Centre Secondary Plan (February 2021)

The Vaughan Metropolitan Centre (VMC) Secondary Plan was produced through a Focus Area Study conducted as part of the City’s Growth Management Strategy, called Vaughan Tomorrow. Vaughan would like to create a transit-oriented downtown by leveraging planned growth and the VMC’s strategic location within the GTA. Section 4.0 focusses on Streets and Transportation. This section stipulates that policies will be developed to establish and maintain logical and direct connections to the surrounding network of streets and highways as well as encourage the diversion of through traffic, particularly truck traffic, to peripheral streets. Streets and intersections shall incorporate design standards and features intended to facilitate walking and street life. Section 7 notes *...From an urban design perspective, private streets may be acceptable if they meet the same minimum standards as typical public streets. They should be fully public in terms of accessibility.*

The Plan also discusses the presence of mews in the VMC. The Plan states that the City may encourage and permit other Local Streets, Mews and laneways to serve development and support the establishment of a fine-grain network of streets in the VMC. Additional Local Streets, Mews and laneways may be public or private. The Plan stipulates that laneways intended primarily for parking access and servicing, and not incorporated within a Mews, shall be permitted throughout the VMC. Section 8 describes requirements for land use and density. Specifically, Section 8.1.18 stipulates that the land area to be used for the calculation of the area of the lot for the purposes of calculating permitted density, shall include the land used for buildings, private landscaped open spaces, off-street parking and servicing areas, new streets, City Street widenings/extensions and mews. Moreover, Section 10.3 outlines policies relating to Plans of Subdivisions. Section 10.3.1 states that the conveyance of Mews streets to the City, for the purpose of public walkways, may proceed through the rezoning or site plan process.

The City is directing growth and intensification to the Vaughan Metropolitan Centre and, as such, it is important to understand the existing private road policy framework before developing an overarching City policy. The VMC therefore has effective provisions for private local streets, mews and laneways that should be used to guide future Vaughan private streets policies.

### 3.1.4 Other Secondary Plans

Appendix B: Secondary Plan outlines analysis of other Vaughan Secondary Plans. Overall, Secondary Plans in Vaughan reference the role of private streets in enhancing connectivity, complementing open space systems, implementing an efficient street network, and conforming with urban design guidelines that implement healthy communities. The relationship between private streets and public street network, in implementing transit-oriented communities or “complete communities” supports development of Vaughan’s private streets policy framework. Vaughan Mills Centre Secondary Plan provides the most descriptive guidance for integrating private streets with new public streets and directs their design and implementation decisions towards the development approvals process. Conversely, the Woodbridge Centre Secondary Plan directly discourages private streets. Flexibility and site context needs to be a consideration in developing a private streets framework.

### 3.1.5 Policy Implementation

Vaughan recently completed a comprehensive review of the city-wide Zoning Bylaw, which is the regulatory document which implements the policy directions of the Official Plan. Comprehensive Zoning By-law Number No. 001-2021 provides a specific definition of Privately Owned Public Places based on their function for visitors and residents “*premises that are publicly accessible and intended for active recreational uses and passive recreational uses, but that are privately owned and maintained.*” By this definition, the City of Vaughan makes a clear distinction between POPS and private streets. This distinguishment is also found in Vaughan’s City-wide Urban Design Guidelines Volume 1.

Performance Standard No. 5.2.7 Private Roads addresses several implementation challenges related to private streets, such as the relationship of this infrastructure to the surrounding community, future redevelopment opportunities, and main roads. These standards support implementation and can be referenced as part of a new private streets policy framework.

The Comprehensive Zoning By-law definitions and City-wide Urban Design Guidelines references can be found under Appendix A: Secondary Plans and other Policy Implementation.

## 3.2 Vaughan Vision 2020 – Strategic Plan (2013)

The Vaughan Vision 2020 is the strategic plan for the City to the year 2020. The updated strategic plan establishes the City’s mission, vision, and corporate values. It outlines the Corporation’s strategic goals and initiatives. In turn, these strategic initiatives are implemented through departmental business plans. City programs, such as the Vaughan Tomorrow growth management strategy, are aligned to the organizational strategic goals as outlined in Vaughan Vision.

The Strategic Plan encompasses three strategic goals: Service Excellence, Staff Excellence and Organizational Excellence. Applicable to this study is the strategic theme of Service Excellence which includes promoting community safety, health and wellness to encourage a high quality of life and the well-being and safety of residents. Also applicable for Organizational Excellence is the strategic theme of management of corporate assets and the continuous assessment of infrastructure requirements to ensure a sustainable future. These considerations for community well-being should be incorporated into the Vaughan private streets policies.

### 3.3 Green Directions Vaughan – Community Sustainability and Environmental Master Plan

The Community Sustainability and Environmental Master Plan functions as the City's sustainability plan and influences all aspects of the City's operational and regulatory activities, including the growth management strategy. The intent of the Community Sustainability and Environmental Master Plan is to establish the principles of sustainability, which will then be used in the development of other plans and master plans to achieve a healthy natural environment, vibrant communities, and a strong economy. Goal 3 of this Master Plan is to ensure that Vaughan is a city that is easy to get around with a low environmental impact. More specifically, under Objective 3.2 - To develop and sustain a network of roads that supports efficient and accessible public and private transit. Action 3.2.2. stipulates the need to continue to support the maintenance, repair, and renewal of the existing road network. This action touches on implementation of the Pavement Management Program including preventative maintenance, road rehabilitation and reconstruction. Action 3.2.3. discusses the need to continue ongoing comprehensive review and update of engineering standards and design criteria including lighting, sidewalks, road cross-sections, etc. consistent with the intent of other City policies including the new Official Plan.

Green Directions Vaughan outlines actions relating to the health of communities, the need for ongoing road maintenance, repair, renewal, of the existing network, along with consistent engineering standards and design. These are all pertinent considerations for the development of future private streets policies for Vaughan.

### 3.4 Relevant Transportation Plans

The City of Vaughan uses an array of Transportation Plans to support concepts of sustainability and connectivity. The new Vaughan Pedestrian and Bicycle Master Plan Study released in December 2020, also specifically addresses the operations of trails adjacent to private streets in terms of safety and transitions between the private and public realm. Direct communication with staff at the City of St. Catharines also identified that signage to demarcate transitions to be worth considering in consultation with maintenance and operations staff. (P. Leyser, personal communication, December 23, 2021)

### 3.4.1 Active Together Master Plan (2018)

The Active Together Master (ATMP) is undertaken jointly by the City of Vaughan and Vaughan Public Libraries every five years to support the Development Charges Background Study and ongoing planning efforts, including the City's Official Plan and Service Excellence Strategy Map. The purpose of the ATMP is to identify current needs and future facility provision strategies, consistent with the City of Vaughan's commitment to providing safe, accessible, and community-responsive parks and facilities that appeal to a wide range of interests and abilities. These commitments should be reviewed when developing Vaughan's private streets policies.

### 3.4.2 Vaughan Transportation Master Plan – A New Path (2013)

Vaughan's "New Path" is about planning in a way that is more sustainable and responsible. It is about ensuring that future population and employment growth will be complemented with new, more reliable ways to travel. Growth is anticipated to place increased pressure on the City's transit services, roads, rail facilities and walking and cycling infrastructure. Principle 3 of the Plan stipulates that Vaughan should Integrate land use and transportation planning to encourage more sustainable lifestyles with the goal to create neighbourhoods that contain the full range of development densities and land uses, including those that are compact, mixed-use, and pedestrian-friendly. Section 2.3.3 Active Transportation references Vaughan's sidewalk policy and the requirement that they form part of a walkway system and are required on both sides of collector and arterial roads. Sidewalks are also required in locations where pedestrian routes connect to local amenities (e.g., schools, transit routes, parks). Design standards for roads are also mentioned in Section 6.6 for ROWs and local roads. These policies and standards can be used to inform future private streets policies within the City of Vaughan to minimize growth pressures on existing municipal infrastructure.

### 3.4.3 Vaughan Pedestrian and Bicycle Master Plan Study (December 2020)

This is a 20-year plan that has been designed with guidelines and recommendations that will assist City staff in the development and implementation of new programs and facilities that can make Vaughan one of the most pedestrian and cycling friendly cities in Canada. The purpose of this Plan is to create a comprehensive City-wide pedestrian and cycling network that, when implemented over the next 10 to 20 years, will accommodate a wide range of users and add to existing pedestrian and cycling facilities in the City. The Plan stipulates the importance of the use of sidewalks to encourage people to walk. In addition, amendments to the Official Plan have indicated that new roads built within subdivisions are either proposed or being constructed with road rights-of-way that are suitable for cycling facilities. Design standards for roads that include multi-use pathways and bike lanes are referenced (e.g., Paved Shoulder Bikeways (PSBs)).

As part of the Plan's implementation framework a proposed new City guideline would require that the Vaughan Pedestrian and Bicycle Master Plan be reviewed when road or other infrastructure projects are identified or scheduled. This should include the City's Road maintenance program as well as the

reconstruction or resurfacing of roads, and any investigation of potential new road alignments or the reuse and / or selling of abandoned rail and utility corridors. The City would also like to work with developers to help fund the development of bike paths. The Plan is important to the development of a private roads policy framework.

In December 2020, an updated Vaughan Pedestrian and Bicycle Master Plan (VPBM) was released. This report emphasized on-going infrastructure maintenance to improve safety, and leverage capital projects and new development to secure connectivity, as well as shift awareness. References are made to the Vaughan Metropolitan Centre and Official Plan intensification areas for the implementation of standards, such as those held in the Pedestrian Design Guidelines, to facilitate active transportation for all citizens.

#### 3.4.4 MoveSmart Mobility Management Strategy (On-going)

The Five-Year Traffic Management Strategy gives life and direction to the City's vision to provide a transportation system that is safe, efficient, and sustainable. In the MoveSmart Mobility Management Strategy, the City continues to focus its efforts on ensuring an efficient and reliable transportation system that ultimately gets citizens and businesses where they need to go in a safe and sustainable way.

Building on the four pillars of the previous Traffic Management Strategy, the on-going development and implementation of the MoveSmart Mobility Management Strategy provides opportunities for issue identification, and operational considerations if private streets become an integral as part of Vaughan's street network, such as the Road Safety Strategic Plan in 2022, Pedestrian Infrastructure Enhancement Plan in 2023 , Cycling Network Expansion in 2024, and ongoing Traffic Data Management Program.

### 3.5 Relevant Articles

Of the articles and research elsewhere that HSAL reviewed, two articles were most informative:

- 1) Private Roads and Double Standards: The Canadian Planning Response. Andrew Curran (2005).
- 2) Private Streets: A Survey of Policy and Practice by Andrew Curran and Jill Grant, Canadian Journal of Urban Research, Volume 15, Issue 1, Supplement pages 62-78 (2006).

The Private Streets Survey provides a summary of results from a survey distributed to 173 municipalities across the country. Canadian Municipalities have a significant amount of development on private streets. Private streets are attractive for residents due to lower development costs and safety considerations, but they also allow for cheaper construction and are for higher densities, especially in high growth areas.

Numerous municipalities across in southern Ontario (Toronto, Pickering, and surrounding GTA) have private roads for a variety of reasons: accommodate development on usually configured sites and difficult topography, satisfy developer requests, and cater to condominiums, and to save money. Moreover, municipalities can add valuable taxpayers with little impact on service delivery costs. Of most interest to

developers is the ability to override public street design standards to implement more innovative projects at higher densities. Lower standards are applied to private streets due to privately borne maintenance and liability costs; no on-street parking; difficulty in securing financing for innovative public road developments; ability to consider each private street on a case-by case basis; and lack of municipal powers in provincial enabling legislation.

Challenges relating to private streets include conflict between municipalities and private owners on long-term maintenance costs. Under maintained roads can result in implications for traffic safety. Municipal planners use an array of tools to shape and manage private streets. Using zoning by-laws, planning policies and recommended good design practice, municipalities can exert some influence over private street layouts including pavement widths, curve radii, access to highways, turnaround facilities and drainage. Fire chief approvals and parking policies can also indirectly shape private streets. Some municipalities in Nova Scotia are now able to help coordinate residents of private streets and assist in the collection of fees on a regular basis (e.g., Lunenburg). Other municipalities have placed a moratorium on new private streets or have banned private streets from certain areas or restricted them to designated zones. Conversely, The City of Toronto examined the possibility of reducing standards for public streets to encourage the design of more context-sensitive public streets that can compete with the attractive design features of private streets. Overall, precise rules governing the planning, design and construction of public streets helps assure a level of quality and predictability in new developers and shield governments from liability.

## 4.0 Private Roads Best Practices

As municipalities in southern Ontario grow, pressure to include private streets in the urban envelop will also increase. There is a need for guidance on how to implement private streets within urban growth centres and intensification areas, for infill and large block redevelopment.<sup>3</sup> Numerous Vaughan Secondary Plans identify POPS and private streets as having a role in these areas. As the City responds to proposals in Vaughan for private streets, the review needs to consider both context and ownership of the private street to identify and resolve pertinent planning and operating issues. The table below illustrates broadly defined categories of private street along with their ownership, location and general function.

*Table 1 Ownership of Private Streets, (broadly defined)*

Ownership	Location	Function
1) Condominium Corporation	Roads within townhouse complexes and parkettes on easements of apartment towers, usually not thru streets	Internal access
2) Real Estate Investment Trusts (REITs), Institutional, Corporate Investors	<ul style="list-style-type: none"> <li>• Shopping mall roads (Promenade Mall, Vaughan)</li> <li>• Open plaza (i.e., Shoppes of Don Mills, Toronto)</li> <li>• Large format retail (Vaughan Metropolitan Centre area)</li> <li>• Privately Owned Publicly Accessible</li> </ul>	Internal access, Intensification, Active and Passive Recreation
3) Individual Homeowners and Associations	Rural roads and lanes – provide broad guidance	Access, privacy, gradual development

Graduate research following the work of Andrew Curran and Jill Grant<sup>4</sup>, notes a policy gap on the regulation of private streets in Ontario and outlines policy tools from the municipalities of Brantford, Cambridge, and Pickering for consideration in future policy development. Along with examples from the City of Toronto they identify best practices to consider in developing a policy framework in Vaughan.

### 4.1 Policy Tools: Building the Framework

The City of Vaughan has existing policies that address private streets through urban design and Secondary Plans. Policy gaps existing in keeping the streets accessible for public use, the financial risk of road assumption, and evolving circumstances related to operational access and transitions between private

<sup>3</sup> Gordon, M. (April 2020) *Regulating Urban Residential Development on Private Road: An Ontario Case Study of Four Municipalities*. Queen's University, Kingston Ontario

<sup>4</sup> Curran, A. and Grant J. (2006) *Private Streets: A Survey of Policy and Practice*, Canadian Journal of Urban Research, Volume 15, Issue 1, Supplement p. 62 – 78



and public streets. Case studies from Ontario illustrate how a policy framework may address municipal risks and liability:

- 1) **Official Plan: City of Cambridge**, Chapter 6: Transportation and Infrastructure, Section 6.7 Private Roads and Laneways permits private streets only if evaluated by the city for functional, operational, servicing, and financial feasibility and goes further in By-law 62-18 to amend Schedule B of By-law No. 185-06 to designate private roadways as fire routes and prohibit parking of vehicles (applicable in townhouse complexes)
- 2) **Secondary Plan: City of Pickering**, *Intensification Plan for Kingston Road Corridor and Specialty Retail Node* includes Section 3 on Connectivity that includes 3.5.7. New Private Streets providing direct language about the location, relationship to block sizes and adjacent sites, and design of intersections, thereby streamlining the integration between the public and private realms, and further specifying that, " new private streets shall provide for public access" and property owner responsibility for ongoing maintenance and state of good repair.
- 3) **By-Laws: City Brantford**, Section 7.12 - *PUD1 Planned Unit Development Type One Zone*, Private Road Systems addresses access in internal roads (referencing townhouses) and Brantford Municipal Parking Bylaw 144-88 requires property owners to meet signage criteria in order to manage requests for municipal services such as enforcement duties and limit public liability on private property.

These specific policies can be found in **Appendix B: Policy Examples**

## 4.2 Liability and Operational Issues

As illustrated in 4.1 Policy Tools: Building a Framework, numerous policy tools exist to address liability, engineering design standards (safety and transitions with public streets), as well as maintenance and operational issues. Listed below are additional considerations for Vaughan in developing a Private Streets Framework:

### 1) Financial Liability of Assuming Private Streets

- Held in private in perpetuity to limit the possibility of Vaughan assuming a private street, especially if assuming the infrastructure requires upgrades to the standard of public infrastructure. If private streets are not held private in perpetuity, consider conditions for transference. i.e., charges and fees
- Access in perpetuity for public and municipal / provincial interests. This includes discussion about maintenance and operations to limit enforcement requests and allow for future evolution of the street network in Vaughan, such as new signage requirements

### 2) Design Standards and Safety

- Engineering and design standards need to ensure access for emergency, maintenance, and waste collection vehicles as well as for safety. Public works may also be used to prescribe

- access and service provision on private streets, for example access for waste management services
- Traffic safety held under the Highway Traffic Act do not apply to private streets, however serious offences can be charged under the Criminal Act. The lack of traffic enforcement on private streets is a consideration if private streets become integrated with public streets.
  - Transition areas where private and public streets meet may need to be demarcated to prevent safety and liability issues for Vaughan

## 5.2 Case Studies in Ontario

### 5.2.1 Financial Liability

Ontario has a history of private laneways in rural areas to inform the risks of assuming private infrastructure. Limiting financial liability may be addressed in a range of general municipal policies which state that the municipality has no immediate intention of assuming existing private roads. A more common approach to include policies outlining the conditions under which the municipality is prepared to assume a private lane as a public road. The most typical policy approach is to require the private lane to be upgraded to a construction standard which is acceptable to Council. Other private lane assumption criteria typically include:

- That the design and construction of the private lane be supervised by a professional engineer or other person competent in road construction.
- That a cost-benefit analysis be required to determine if the operational costs of assuming and maintaining the road will be offset by property tax revenues.
- That the costs for upgrading the private lane to a Township standard will be borne by the adjacent property owners<sup>5</sup>.

A municipality's costs for assuming a private lane as a public road can be significant, even if the lane is constructed to a standard which is acceptable to the municipality. Few official plans have policies which are intended to assess the capital and operating costs of assuming a private lane on the long-term capital and operating costs of a Municipality's Road system<sup>6</sup>.

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<sup>5</sup> Jp2g Consultants Inc. (2016) Private Roads (Lanes) Study: Final Report and Recommendations County of Frontenac, Ontario, Canada

<sup>6</sup> Jp2g Consultants Inc. (2016) Private Roads (Lanes) Study: Final Report and Recommendations County of Frontenac, Ontario, Canada

### 5.2.2 Access and Connectivity

The City of Toronto's Official Plan emphasizes the importance of developing complete streets and dividing larger sites into smaller development blocks. While there may be a requirement to provide public roads on new development through the Official Plan and development application review process, developers may contest this.

Under the Sherway Area Secondary Plan, site specific requirements for an existing internal private ring road is anticipated to be rezoned and designated as public. This private ring road is currently used as a service and access road to the Trillium Health Partners hospital site and Cadillac Fairview Sherway Gardens mall. In order to remove this site-specific requirement and maintain the existing private ring road, developers applied for an Official Plan Amendment (OPA). The OPA 469 was adopted by the City of Toronto in 2019 and has been appealed to the Local Planning Appeal Tribunal. Dates have not been set for this appeal. While there is legislative authority through the OP to require new developments to redesignate private streets into public streets, the enforcement can be appealed. This is an implementation consideration for developing a Framework in Vaughan.

Finally, developers may choose to hold private streets for future development, thereby limiting or eliminating connectivity and access. For example, in Toronto's Junction neighbourhood, initial development of 158 Stirling Road led to a subsequent proposal for 201 Stirling Road <sup>7</sup> by a second developer to intensify the mixed-use site with new office buildings built over the original private street. A revised application by a third developer provided a design solution using a bridge to connect two separate buildings to maintain the street.<sup>8</sup> This illustrates a risk to continuous connectivity if a private street is used to create a finer street grid. Vaughan may consider using this example to inform site plan agreements when negotiating access in perpetuity for private streets as agreements in Titles and Deeds.

### 5.2.3 Managing Operations and Service

Service requests for internal private streets in Brantford illustrate the need to define when and how requests may be honoured. Brantford includes several By-laws that define private streets with specific direction for non-enforcement of the Highway Traffic Act, R.S.O. 1980; when parking enforcement is allowed; and what specific municipal services may be provided. Detailed wording can be found in Appendix B: Policy Examples. These examples identify operational implementation issues for consideration by Vaughan.

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<sup>7</sup> [158 Stirling Road and the subsequently proposed 201 Stirling Road](#) (Last Accessed on January 26, 2022)

<sup>8</sup> [Hines proposal for 201 Stirling Road](#) (Last Accessed on January 27, 2022)

#### 5.2.4 Relationship to Other Objectives

Private streets are an operating cost to property owners who, over time, may regard it as a financial burden. The Canadian Condominium Institute<sup>9</sup> notes that public access to private roads may increase insurance premiums due to increased liability claims. Condominium corporations and owners may further consider themselves double taxed, leading to grievances against the municipality. This may conflict with regional-municipal interests to keep housing affordable. Real estate investment trusts may be better suited to absorb or offset the cost of private street maintenance as POPS and private streets tend to increase retail performance and demand for leases – a situational consideration for Vaughan.

### 5.3 Case Studies: Other Provinces

The following provides an illustration of how other municipalities have developed policies regarding private roads in Canada. These examples inform development of criteria for implementing private streets.

#### 5.3.1 Lunenburg Private Streets By-Law

The Municipality of the District of Lunenburg, Nova Scotia, By-Law Respecting the Maintenance, and Improvement of Private Streets (Amended, 2009) refers to a private street, private roadway, or private traveled way situated in the Municipality. The Municipality may levy a charge for any improvements or maintenance of these private streets. The levy charge is based on either lot frontage basis, uniform lot charge basis or lot area/lot assessment/ assessment classification basis. Owners can petition the Municipality for improvements or street maintenance and an agreement may be made by the Party and the Municipality. Administrative changes are also to be incurred. Annual budgets for street maintenance are provided on annual basis by Council. Liens are applied to properties once the Clerk files at the Municipal Office and payment plans are developed.

The following result and conclusions were reached:

- **Seasonal Versus Permanent status:** Where a majority of existing development on a private lane is determined to be permanent residential, or where the private lane is located in an area where conversion rates will likely result in a majority of permanent residential development in the future, no new lot development in the form of limited infilling or minor extensions shall be permitted unless the private lane is developed within common elements or vacant land condominium, and the lane is constructed to the Township's private lane standard.
- **Private Lanes Standards:** A private lane standard has been developed in consultation with each of the Township's public works department staff.

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<sup>9</sup> [Canadian Condominium Institute](#) (accessed January 14, 2022)

- **Infilling and Extension of New Lots on Existing Lanes:** A review of legal mechanisms for the long-term maintenance of private lane standards through new lot development concluded that common element agreements should most appropriately be implemented where a new lane or a major extension to an existing lane is proposed as part of an application for subdivision or vacant land condominium.
- **New Private Lanes:** New lot development through infilling and limited extensions will serve to increase the suitability of existing lanes for the provision of emergency service vehicles with minimal financial impacts on local municipalities over the long-term.
- **Existing vacant Lots:** Development on existing vacant lots on private lanes should continue to be permitted in accordance with local municipal site development requirements and be recognized as an area of limited service within a Limited Service Zone in the municipality's zoning by-law.
- **Assumption of Private Lanes:** No private lane should be assumed into a municipal road system unless the local Council is satisfied that the annual maintenance or long-term operating costs will not place an undue burden on the costs of operating the municipality's road system.
- **Conversions:** Zoning and other legal tools are best suited to notifying property owners that their property is located on a lane which has limited services, and to controlling the adequacy of onsite services, landscaping, grading and environmental considerations that are commonly associated with renovation or enlargement of dwellings for year-round residential use.
- **Private Lane Monitoring:** A database can be used to monitor the location of where these trends are occurring and anticipate where this trend is likely to occur in the future.

### 5.3.2 Tay Valley Policies and Procedures Manual

The Tay Valley Township, Ontario, Policies and Procedures Manual – Minimum Standards for Assumption of Private Road (2002) considered the assumption of private roads into the municipal road network for long term maintenance. The Township specifies that each application for assumption will be evaluated on its own merits. It is deemed appropriate to establish a minimum standard of road condition which must be met prior to any consideration of a request. Prior to the Township's consideration of any request to assume a private road into the municipal road network, the applicant is expected to enter into an agreement with the Township to bring the physical road condition into compliance with minimum standards for assumption of private roads. Standards include provisions for ROW width, surface width shoulder width, service type, depth of granular base, ditches, culverts, and maximum gradient.

## 6.0 Conclusions

Compact urban design has increased proposals that include private streets as part of intensification and infill development. This emerging infrastructure brings opportunities for connectivity, animation, and efficient land use, all of which fit in with current planning objectives for compact transit-oriented and healthy communities. Vaughan needs to be aware that an increasing use and dependence on private streets brings potential risks from financial liability, safety and design limitations, and inconsistent access. Furthermore, Vaughan needs to provide clear direction for municipal operations and maintenance.

In the City of Vaughan, policy implementation documents such as the new Comprehensive Zoning Bylaw review and the City-Wide Urban Design Guidelines Volume 1 provide a separate definition for POPS and performance standards that identify how private roads/streets should relate to the community and main roads, while acknowledging their role in supporting pedestrian linkage and active transportation. We recommend that Vaughan prepare a separate policy statement that references the definitions in these approved implementation documents and consolidates a response to risks as associated with perpetual connectivity, affordability, and future planning opportunities. Listed below are situations in which Vaughan should consider implementing private streets.

### 6.1 Situations for Private Streets

Based on the policy review and case studies, developers and property owners are increasingly using private streets to maintain control of future development, internal access, density, and to build to marginal or below standard levels. They are also using them to implement aesthetic elements that increase connectivity and access within sites. Policies and case studies from the City of Toronto and City of Pickering illustrate how proposals for large parcels may include private streets to create a finer grid, and where their implementation may challenge municipal interests.

Given the above, HSAL identified six situations in which private streets would be consistent with Vaughan's existing policies and implement compact development with sustained connectivity. The situations outlined below highlights each one separately however, they are interwoven and should be read in their entirety:

1. **SITUATION ONE:** The proposed development is within an intensification area or urban district, and preferably located where secondary plans acknowledge the role of private streets with guidance for the design and standards to be used, i.e., the aesthetics of the infrastructure creates a pedestrian-friendly environment.
2. **SITUATION TWO:** The rationale for the private street aligns with planning objectives listed in relevant Secondary Plans and illustrates efficiency in land use. i.e., intensification and compact design.

3. **SITUATION THREE:** The private street exists within a development site, does not connect public arterial roads, and can be demarcated as privately owned and maintained. I.e., streets adjacent to POPS and internal ring roads.
4. **SITUATION FOUR:** The proposal demonstrates that the usage and function of the infrastructure will not become integrated or confused as a thru street connection to arterial roads or relied upon for access to major landmarks, institutions, and public facilities either at the time of the proposal or in the future,
5. **SITUATION FIVE:** The private street will be maintained by a single entity, who agrees to keep the infrastructure maintained to the standard of a public street and consistently open for public use.
6. **SITUATION SIX:** The property owner or developer agrees to design and construct infrastructure to the standard of public infrastructure.

## 6.2 Criteria for Private Streets

This policy review primarily addresses demand for additional new private streets. However, HSAL recognizes that the development process opens dialogue for conversions in both directions. It is our opinion that public streets are the preferred infrastructure for building a consistent and sustainable finer grid street network. However, under certain circumstances, private streets add value to the urban landscape. The decision to allow private streets requires site-by-site determination, and the City needs criteria that allows private streets in situations that best serve the public.

Within current City of Vaughan policies, private streets are referenced in an array of documents ranging from secondary plans, strategic plans, and urban design guidelines to transportation plans and infrastructure standards. Policy references from the municipalities of Toronto, Brantford, and Pickering provide further guidance on how a well-structured policy framework may ensure municipal interests in private streets. Their implementation highlights additional challenges in terms of municipal services and operations.

HSAL Recommends that the City of Vaughan embed the following criteria into policy:

1. **ASSUMPTION:** Limiting the financial liability of assuming infrastructure, which may include statements that hold private streets as such in perpetuity and/or permit Vaughan to charge a fee or hold the property responsible for improvements in the case of assumption. New policies would be required to permit Vaughan to implement this criterion.
2. **ACCESS:** Proposal defines the function of the proposed private street, holding continuous function and access in site plan agreements and on titles and deeds to prevent future change or limitation in land use and connectivity.
3. **CLASSIFICATION:** The new street should be distinguished as POPS, laneways, and streets as each functions differently. Dialogue about their function within Vaughan's street network may

encourage discussion of future use and operations such as managing traffic on private property, and the design at transition points between private and public infrastructure.

4. **DESIGN STANDARDS:** Proposal design is consistent with planning objectives for transportation, as well as engineering standards for safety. City of Vaughan policies may also need to include a definition of applicable municipal services for new private streets.
5. **OPERATIONAL LIABILITY:** Negotiation of a private street functioning as a thru-street connecting public roads needs to include dialogue about signage to demarcate a transition between public and private infrastructure. This installation should ensure appropriate use and pre-empt liability against Vaughan.

Policy development discussions will be necessary to create a policy statement nuanced enough to be both directive and flexible in recognizing the complexity of building a comprehensive street network in partnership with the development community. These nuances and the solutions that balance site-by-site decisions have been illustrated by the challenges found in the cases of 201 Stirling Road and the Sherway Area Secondary Plan (ongoing appeal) in Toronto.

### 6.3 Next Steps: Policy Development

Section 6.1 Situations for Private Streets, notes that City of Vaughan has an array of policy documents that mention private streets. However, a consolidated policy statement providing clear direction, including operational expectations, may benefit the approvals process. HSAL recommends that the City of Vaughan create a comprehensive policy framework using these initial steps:

1. **CREATE A NEW BYLAW:** Consider a comprehensive policy approach revising the Official Plan, creating a new Bylaw, and initiating internal dialogue between policy and development planners, maintenance and operations, and transportation staff to identify issues specific to Vaughan. Appendix B and C may inform the structure of the policy framework.
2. **POLICY INTEGRATION:** Several strategic plans address accessibility, safety, community well-being, walking and cycling infrastructure, transit services, public walkways, traffic management and sustainable transportation. Drafting policies relating to private street design, ownership and maintenance would be complimentary. Consider integrating new policies with existing transportation plans for additional policy support.
3. **INTERNAL REVIEW:** Existing Secondary Plans listed in Appendix A include a range of circumstances for private streets from prohibited to urban design directed pedestrian lanes and POPS. Internal dialogue of Secondary Plan implementation with development planners may further inform on Vaughan specific implementation issues existing in the site plan approval process.
4. **IMPLEMENTATION:** Consider the examples outlined in Appendix B. Policies in Toronto, Pickering, and Brantford include robust implementation considerations based on experiences ranging from



townhouse to large block mixed-use redevelopments. New to long standing examples such as Etobicoke Centre, Sherway Gardens, and Shops of Don Mills exist in Toronto.

5. **OPPORTUNITIES:** Utilize the current Comprehensive Municipal Review and Vaughan Transportation Plan process to integrate policy revisions and engage York Region to confirm overlapping interests and tools to support mutual transportation objectives. Dialogue may also include broad objectives such as the intersection with affordability and funding.
6. **PROGRAM IMPROVEMENT:** Utilize opportunities in the ongoing MoveSmart Mobility Management Strategy implementation to dialogue with Operations and Maintenance staff for discussion of details to include in a new Bylaw.

In summary, despite the existing policy gap in Ontario, there are an increasing number of informative development scenarios that can be used to guide Vaughan's creation of a private streets policy framework. To provide Vaughan with a foundation for further discussion, HSAL has highlighted the most prominent issues related to private streets implementation. Along with specific directions, HSAL believes the City of Vaughan will have a successful start towards their made-in-Vaughan policy solution.

# Appendix A: Secondary Plans and Other Policy Implementation

## Carville Centre Secondary Plan (2013)

The Plan indicates that the lands within the Carrville Centre will become the focus for higher order land uses within the community of Carrville. The Centre will evolve to be an urban centre that is designed to be 'pedestrian-friendly' and transit-supportive. The Carrville Centre will also provide opportunities for community scale commercial facilities, along with more intense residential forms of development, and encourage mixed-use development.

Section 11.2.18 Transportation, item g) stipulates that subdivision agreements can permit private roads that are designed and built to City standards with a public easement that conveys the road to the City at no cost at any time in the future. Section 11.2.15 Pedestrian Realm indicates that the provision of publicly accessible, privately-owned, mid-block urban squares are encouraged on individual sites in order to complement the public open space system. These are intended to be designed as pedestrian landscaped mews and should be lit, landscaped, and maintained for public use.

Carville's policies for private roads, publicly accessible privately-owned mid-block urban squares and pedestrian mews take into consideration the Centre's growth, development, and higher order land uses. They are therefore applicable to future policies for private streets developed by the City of Vaughan.

## Concord Go Centre Secondary Plan (2015)

The purpose of the Concord Go Centre Secondary Plan (2015) Study is to establish appropriate land use planning and urban design policies to guide the development in the Concord GO Centre Secondary Plan Study Area to the 2031 horizon. Under Section 4.2 regarding the street network, the Plan stipulates that direct vehicular access from Highway 7 should not be permitted for new areas of development. Access to development will be directed to public streets and/or private streets or lanes.

## Kipling Avenue Corridor Secondary Plan (2014)

The Kipling Avenue Corridor Secondary Plan (2014) states that development shall contribute to a defined identity and a 'sense of place' and the area should be defined by a strong pedestrian realm and a healthy mix of uses. Section 11.5.3.2. discusses the consolidation of land parcels to facilitate comprehensive development particularly in the Rainbow Creek neighbourhoods. Private streets and laneways are discouraged, but if allowed, development should provide public pedestrian access, connect to other streets or laneways and be visually appealing and pedestrian friendly. Moreover Section 11.5.3.25 states that private laneways can contribute to the overall street network and provide pedestrian linkages

throughout the area and should be designed to be pedestrian friendly, accessible, visible, and safe. Private laneways should also be located at the rear of buildings only as a means of accessing and connecting to parking facilities and services. Furthermore, they should provide a continuous pedestrian connection to adjacent streets or open spaces.

In addition, Section 11.11.5.4 states that the calculation of residential density shall include areas of a property reserved for setback requirements, the land for the buildings, private roads and driveways, parking areas and landscaping, amenity areas related to the specific development, or any other part of the property where development is restricted through policy or design but shall exclude all other lands such as natural conservation areas.

Section 11.5.27.10 states that for the Street Network for the Kipling Avenue Corridor, any additional road, public or private, that is deemed by the City to be necessary to the efficient implementation of this Street Network indicated in the plan can be constructed without further amendment of this Secondary plan.

The Kipling Avenue Corridor Secondary Plan policies set standards for the pedestrian realm and street network to guide new developments. The City of Vaughan should also look to set design and quality standards for future private streets to ensure their relationship to the community and existing amenities remain intact.

#### Maple/GO Secondary Plan (2014)

The Maple GO Station Secondary Plan was approved in 2014 by the Region of York to allow mid-rise mixed-use zoning designation for the area located east of the Maple GO Station, and west of Troon Avenue. The need for improved connectivity between the north and south sides of Eagle Rock Way is emphasized in section 11.6. While this plan does not discuss private streets directly, in conformance to pedestrian and bicycle network policies, 11.6.1.9 outlines the need for safe and accessible street access for all developments within this study area. Conforming to the Urban Design Guidelines in section 11.6.1.8, this secondary plan also encourages the development of an attractive street environment.

#### Promenade Centre Secondary Plan (on-going)

Promenade Mall is in a “Primary Centre” for intensification, as designated within the Official Plan. As this area is located in a Major Transit Station Area, this secondary plan also includes a comprehensive transportation study to plan for future transit infrastructure. This Secondary Plan includes a Background Transportation Discussion Paper illustrating how transportation-related plans such as Green Directions Vaughan, Vaughan Pedestrian and Bicycle Master Plan, and on-going Transportation Master Plan can be integrated where a Transportation Mobility Plan is required (for proposed developments generating 100 or more person trips. Case studies in Brentwood Town Centre, Agincourt Mall, and Oakridges Centre were

also used to look at best practices, and development trends and principals. New private streets are not mentioned within this study.

#### Steeles West Secondary Plan (2018)

The Steeles West Secondary Plan (2018) states that it is vital that transit-supportive and pedestrian oriented development be achieved at the outset. In Section 11.3.3 Development Principles and Objectives, item b ii) stipulates the need to optimize the use of existing public lands within and surrounding the area for infrastructure and community amenities, thereby maximizing the potential of private lands for transit-supportive development. The Steeles West Secondary Plan recognizes the relationship between public and private streets, which should be taken into consideration for the development of future Vaughan private streets policies.

#### Vaughan Healthcare Centre Precinct Plan (on-going)

Situated west of Highway 400 in the northwest quadrant of Jane Street and Major Mackenzie Drive, this Plan was completed to form an understanding of the surrounding area for the development of a future healthcare precinct. This Plan outlines design and streetscape strategy, where both Jane and Major Mackenzie are envisioned to support not only vehicles, but also people on foot, bicycle, and transit. Access through private streets are not discussed within this Plan.

#### Vaughan Mills Centre Secondary Plan (2014)

The purpose of the Vaughan Mills Centre Secondary Plan Study is to develop appropriate land use and urban design policies and designations for the Vaughan Mills Centre Secondary Plan area for a planning horizon extending out to 2031.

Under Section 3.9 Parking and Servicing Facilities, the Plan stipulates that shared private driveways or public lanes will provide access to development blocks and will be coordinated within the blocks to give access to multiple buildings. Shared private driveways or public lanes will also be designed to meet technical standards of the City and enhance pedestrian safety through providing adequate lighting, connecting with a street at both ends, and providing sufficient landscaping to buffer the lane from outdoor amenity areas.

Section 4.2.7.4 Private Lanes states that private laneways and/ or private streets may be required to service development within a block. The need for laneways and private streets and their location, function, and character shall be determined during the development application process with the City. Moreover, private lanes have the following design considerations:

- Lanes and service roads are utilized to provide direct driveway access where access from a roadway is inappropriate. The design requirements for these streets should be of a high standard in terms of contributing to a quality public realm environment. At a minimum, laneway design is required to address issues such as pavement width and the relationship to parking and service areas but must also provide a safe environment for other uses such as pedestrian circulation and linkages;
- Laneways should be located at the rear of buildings only as means of accessing and connecting to parking facilities and services;
- Laneways should provide a continuous pedestrian connection to adjacent streets or open spaces; and
- In a commercial context, laneways and service roads should be organized to connect surface parking lots, and link to local roads to the satisfaction of the City.

In section 6.2 regarding development proposals, the Plan stipulates that a Development Concept Report is required in accordance with Policy 10.1.1.7 of VOP 2010, that includes a traffic impact study and functional design for public and private streets and lanes, and connections to the external street network and including the identification of new public streets for dedication to the City through the Development Approval process.

The Vaughan Mills Secondary Plan has design provisions and considerations for private lanes. City of Vaughan's future private street policies should consider setting design and planning standards at the development application process.

#### Weston Road and Highway 7 Secondary Plan and Transportation Master Plan (on-going)

The Weston Road and Highway 7 area, situated in a "Primary Centre" as designated by the Official Plan, is being studied to plan for an accessible complete community and guide future development. Current land use in this area are low rise Private streets are not mentioned.

#### Woodbridge Centre Secondary Plan (2015)

Item 7 under Woodbridge Centre Secondary Plan (2015) Section 3.7.2 Streetscape design states that need to ensure the creation of publicly accessible streets and laneways and discourages private roads and laneways.

#### City of Vaughan Comprehensive Zoning By-Law No. 001-2021

This regulatory document provides the following definition:

**Privately Owned Public Space** Means premises that are publicly accessible and intended for active recreational uses and passive recreational uses, but that are privately owned and maintained.

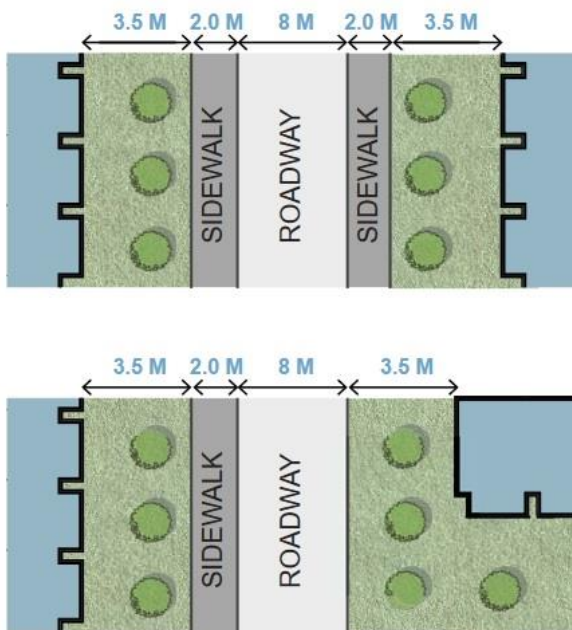
## City-Wide Urban Design Guidelines Volume 1

Urban design guidelines provide direction for creating high quality design. These guidelines support existing policies such as the Official Plan, Secondary Plans, Area Site-specific plans, and Sustainability Performance Metrics. The implementation of private streets may reference Performance Standard No. 5.2.7 under *Private Roads* in defining their relationship to other infrastructure:

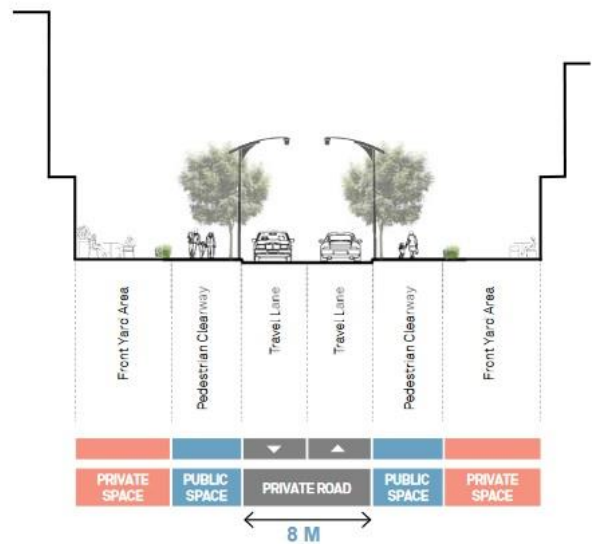
*Private roads are typically found internal to development blocks and provide frontage to internal buildings as well as an enhanced driveway experience.*

- Private roads should only be considered if the City has determined that the road provides no connective value to the surrounding community or future adjacent redevelopment sites.*
- Private roads should be designed as complete streets that safely accommodate all modes of traffic, include features that slow vehicular traffic, and have a strong design focus on pedestrian and cyclist movement.*
- Private roads should connect to main roads at transit stops to facilitate pedestrian access.*

Private streets should also follow design standards illustrated in the guideline.



*Sidewalks should be provided on at least one side of the private road to connect pedestrians to building entrances.*



*Sidewalks should be provided on two sides if more than 40 units are facing the road.*

## Appendix B: Policy Examples

### City of Cambridge

City of Cambridge Official Plan, under Chapter 6: Transportation and Infrastructure, Section 6.7 Private Roads and Laneways states:

- 1. The City may permit public and private laneways subject to an evaluation by the Region and the City regarding their function, operation, servicing and financial feasibility.*
- 2. The City will not assume any existing or new private roads, including common element roads or associated features, such as retaining walls created through the development process.*
- 3. Private roads and laneways must be maintained by the owner(s) and remain unobstructed in order to meet the access requirements for which they were designed including access by emergency services.*
- 4. All private roads and laneways must be designed to meet the City's and Ontario*

### City of Pickering

As an illustration of what can be done on the level of a Secondary Plan, the City of Pickering ***Intensification Plan for Kingston Road Corridor and Specialty Retail Node*** includes section 3 on Connectivity that includes 3.5.7. New Private Streets providing direct language about design standards that streamline the integration between the public and private realms.

#### *POLICY RECOMMENDATIONS*

- b. Development sites will identify new private streets, generally as shown in the Intensification Plan in Fig.7-11.*
- c. The location of these roads is flexible as the overall block pattern is achieved, the achievement of minimum and maximum block sizes on the development site and adjacent sites is not compromised, and appropriate intersection spacing is maintained*
- d. Strong public amenities should be provided, including sidewalks, cycle paths or multi-use paths, and landscape and furniture zones.*
- e. A landscape and furniture zone is encouraged on both sides of the street to create a comfortable public realm.*
- f. The landscape and furniture zone should be able to accommodate a street tree, typically a width of 2 metres.*
- g. It is encouraged that off-street parking and cycling infrastructure be provided within private properties to facilitate connectivity.*

*h. Private landowners should be responsible for ongoing maintenance to ensure that private streets remain in a state of good repair*

#### Urban design guidelines

- (City of Pickering, 2017, p.79) *“in addition to municipal rights-of-ways, private streets and laneways will serve an important function within the City Centre, providing access and connectivity between points of interest and activity.”*
- (City of Pickering, 2017, p.66) *“new private streets shall provide for public access”* reducing the incentive for private streets

#### 3.4.8. Privately Operated Public Space

##### *POLICY RECOMMENDATIONS:*

*a. All at-grade POPS should be publicly accessible unless they are for single-family residential units.*

*b. The locations of POPS will be identified in the implementing zoning by-law and their exact size, location and design will be addressed through detailed block planning, also to include matters such as connectivity and cost sharing between multiple landowners.*

*c. Private landowners should provide public easements as necessary over Privately Owned Publicly-Accessible Spaces to provide access to the general public. These can include, for condominium developments, public easements in common element areas.*

*d. Private landowners should be responsible for ongoing maintenance to ensure that publicly accessible spaces remain in a state of good repair*

#### City of Brantford

The City of Brantford has not passed bylaws directly related to the *development* of private streets, however, existing zoning and municipal parking bylaws define and provide guidance on *enforcements* based on their experience with internal private streets, mainly in townhouse complexes.

#### **Comprehensive Zoning Bylaw 2021, Office Consolidation City of Brantford**

Section 7.12 - *PUD1 Planned Unit Development Type One Zone*, Private Road Systems are defined as:

*“...a road system as shown on Schedule "E", Map PUD1-2, and approved by the City which is designed to provide internal vehicular access to any portion of a development established on the lands but shall not include a Highway as defined in the Highway Traffic Act, R.S.O. 1980, driveways or parking areas as defined herein” (City of Brantford, 2019a, p 18-1)”*

#### **Municipal Parking Bylaw 144-88**

It is noted in that the enforcement parking and fire route access will not be met unless properties meet the City of Brantford’s Municipal Bylaw 144-88 standards and include signage on said properties.



*“Property owners may request enforcement on their property by entering into an agreement with the City of Brantford. A private parking enforcement agreement allows a parking enforcement officer to enter private property as directed by the property owner to monitor and enforce illegal parking.”*

Additional guidance for property owners is provided through the City of Brantford’s Parking Enforcement on Private Property application.

**Bylaw Amendment No. 135-2014, section 7.11.4.4 54 Dufferin Avenue (RHD-4)**

*“Notwithstanding any provision of this Bylaw to the contrary, no person shall within any RHD-4 Zone use any lot, or erect, alter or use any building or structure, except in accordance with the following provisions: Vehicular access from Spring Street shall be restricted to emergency service, garbage collection, and moving vehicles only.”*

# Appendix C: Policy Findings

## Toronto Green Standard:

- Promote sustainable site and building design through mandatory requirements in the planning approvals process or financial incentives.

## City of Toronto Design Guidelines for Privately Owned Publicly-Accessible Spaces (POPS):

- Develop design guidelines to help new private streets achieve optimal locations, design and scale;
- Design guidelines can include considerations for accessibility, maintenance, visibility, signage, existing amenities, natural areas, materials, sightlines, and landscaping.

## City of Toronto Case Studies:

- Intensification and land scarcity may increase development pressure for private streets, as the desire for finer grained urban blocks needs to be addressed.
- Risk to continuous connectivity and maintained function may be addressed in a robust private streets policy framework, as well as codification in site plan agreements and titles and deeds.

## Cities of Cambridge, Pickering, and Brantford in Developing a Policy Framework

- Official Plans provide an avenue for reducing the financial risks and ensuring engineering standards are met by directing an evaluation of proposals
- Secondary Plans provide opportunities to consider the relationship of private streets within local contexts, transitions and integration with public streets, and an on-going state of repair
- By-laws may be used to define and manage additional operational concerns without restructuring other municipal strategic plans

## Lunenburg, Nova Scotia, By-Law Respecting the Maintenance, and Improvement of Private Streets:

- Employ a levy or charge for improvements or maintenance of private streets;
- Determine long-term maintenance strategies;
- Develop a private lanes standard;
- Develop a monitoring program to anticipate future trends.

## Tay Valley Township, Ontario, Policies and Procedures Manual – Minimum Standards for Assumption of Private Road:

- Develop an agreement for bringing the physical road condition into minimum standard for potential assumption of private roads.